

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Case No. 22-cv-08969 (PAE)

CHRISTOPHER WOZNIAK

Plaintiff

VS.

WARNER BROS. ENTERTAINMENT, INC.

Defendant

DC COMICS

Third-Party Plaintiff

VS.

CHRISTOPHER WOZNIAK

Third-Party Defendant

Videoconference Deposition of CHUCK DIXON,
taken on behalf of the Third-Party Defendant,
through counsel, September 1st, 2023, at 9:52 a.m.,
before Nadine M. Castonguay, a Court Reporter.

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2

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1 pending, we can take a break. So just let
2 us know whenever you need a break. I don't
3 anticipate us going on for very long today.
4 But if you do want a break, let us know.

5 A. Okay.

6 Q. Finally, this is a very informal
7 session. But I want you to remember that
8 you're here under oath and you're
9 testifying just as if we were in a court
10 of law. And we expect you to tell the
11 truth to the best of your ability. Okay?

12 A. Yes.

13 Q. All right. So let's get started
14 I guess with a little background
15 information.

16 I understand you used to be
17 a freelance contributor to DC Comics.
18 Is that accurate?

19 A. Yes, it is.

20 Q. When was that? When were you a
21 freelance contributor to DC Comics?

22 A. Roughly, 1991 to 2002.

23 Q. What does that mean when we say
24 you were a freelance contributor for
25 DC Comics?

1 A. Well, I was not a company
2 employee. Basically you would be assigned
3 jobs and paid by the page.

4 Q. Okay. And when were you paid,
5 after or before work was done?

6 A. Always paid after.

7 Q. All right. And how did you get
8 your start at DC Comics?

9 A. Danny O'Neil, who was the Batman
10 group editor at the time, reached out to
11 me. I had been working for several other
12 companies at the same time. He reached out
13 to me to write a miniseries featuring
14 Robin, Batman's sidekick.

15 I did it, it was successful
16 and from there I basically worked on a
17 number of Batman titles over the course of
18 the next 11 years.

19 Q. Okay. Can you name some of those
20 for us?

21 A. Detective Comics, Night Wing.
22 I did a hundred issues over Robin monthly.
23 I worked on Cat Woman, Green Arrow,
24 Green Lantern. I did some work on
25 The Flash, a little bit of Super Man.

1 Birds Of Prey, a title created by me and
2 Jordan Gorfinkel, a number of others.

3 Q. So at your, during that time the
4 group editor was always Danny O'Neil?

5 A. It was Danny O'Neil I think until
6 1999, when he retired.

7 Q. Did you work with any other
8 editors while you were a freelance
9 contributor to DC Comics during those
10 years?

11 A. I worked with almost every editor
12 there. Mike McEveny, Joe Elich, Scott
13 Peterson, Dara Venchenzo, Jordan Gorfinkel.
14 Kevin Duely, Chris Duffey.

15 I mean, the list goes on and
16 on. Following Denny -- Oh, man. The name
17 is slipping my mind of who the group editor
18 was.

19 Q. Did you ever submit unsolicited
20 materials to DC Comics for their
21 consideration in the hope that they would
22 publish the work that you created?

23 A. All the time. We were always
24 pitching specials, mini series. Like I
25 say, Jordan Gorfinkel and I pitched Birds

1 of Prey which became a title on its own.

2 Q. And with respect to the Batman
3 comic, did you ever use Batman characters
4 in these unsolicited submissions to
5 DC Comics?

6 A. Absolutely. I was inside the
7 Batman circle, so I pretty much had free
8 reign to do whatever I wanted to do with
9 any of those characters, within the
10 restrictions the editors gave.

11 But, yes. I mean, I use
12 Batman characters in all of my titles.

13 Q. When you said you were in the
14 inner circle, was there sort of written
15 permission provided to you to use Batman
16 characters in your unsolicited materials?

17 A. No, no. There's nothing like
18 that. You just wanted to make certain that
19 your use of the character fit within
20 continuity.

21 A lot of times you were told
22 you can't use that character because
23 they're on another planet currently or
24 they're dead or whatever reason. There
25 was nothing written. It was all creative

1 continuity conflicts that you had to work
2 out.

3 Q. Was this permission that you
4 understood that you had? If it wasn't
5 provided in writing, was it ever provided
6 orally to you?

7 A. Permission to use the characters?

8 Q. Yes.

9 A. Yes. I mean, you would just
10 check to make sure, Can I use this
11 character.

12 Like I say, the only real
13 restrictions were continuity. It wasn't
14 like this character is forbidden, nobody
15 could write it. You didn't want to
16 conflict with what another writer was doing
17 on another title.

18 Q. Right. Okay.

19 Did you -- were you ever in
20 a situation where you submitted material
21 and you were told that you were in jeopardy
22 of being sued by DC Comics because you had
23 used their copyrighted material in your
24 unsolicited submission?

25 A. No, nothing like that ever

1 happened.

2 Q. Were you aware of that ever
3 happening to other freelance contributors?

4 A. I had never heard of that
5 happening.

6 Q. Okay. Was it your understanding
7 that each editor was at liberty to consider
8 unsolicited materials from freelance
9 contributors?

10 A. Yeah. I mean, you can walk in
11 off the street and pitch something.

12 Q. Did that ever happen?

13 A. Oh, yeah. It happened all the
14 time. I never pitched for Batman because I
15 never thought I'd ever get it. That was
16 the dream assignment in comics.

17 But, yes. I pitched lots of
18 other things. I was always at DC, throwing
19 ideas at them before they hired me and
20 after they hired me.

21 Q. How did you throw ideas at them?

22 A. You might show up with like a
23 pitch piece, like a treatment, like a four
24 or five-page thing. Or you might just
25 pitch it verbally in their office; what if

1 this happened what if we did this. Just
2 simple you know, very casual atmosphere.

3 Q. When you did a pitch piece, would
4 you write down sort of the idea of the
5 story? Was there text you work from when
6 you did a pitch piece?

7 A. No. You just sort of wrote a
8 general summary of what the story would be
9 about and how many issues you think it
10 would take to tell.

11 Q. And would you use -- would you
12 use a DC character in that pitch piece?

13 A. Absolutely. If you were pitching
14 to DC, there's DC characters.

15 Q. Okay. All right. And when you
16 didn't a pitch piece, you submitted it to
17 an editor. What was the next step?

18 A. You'd wait till they read it.
19 Sometimes they'd read it right there in
20 front of you, if you handed it to them in
21 person.

22 Generally, I would email.
23 Back in the day, fax pitches. And you just
24 wait to hear back. It would either be yes
25 or no, or let's talk about it, or maybe we

1 can use this later, or maybe if you, if it
2 was four issues instead of six, all those
3 kind of considerations.

4 Q. But it was your understanding
5 that you had permission to use DC
6 characters in your pitch pieces, correct?

7 A. Yes. They were wide open ideas,
8 they would sometimes say, you know, could
9 you pitch this character, we're looking for
10 something for this character or that
11 character a lot of times.

12 The structure at DC was that
13 all of the characters were broken up and
14 controlled by different editors. So you
15 had to find out which editor was
16 controlling the character you were
17 interested in. And just simply pitch to
18 them either verbally or in print.

19 Q. Okay. Were you aware of any
20 other freelance writers pitching to editors
21 of DC Comics material that incorporated
22 DC Comics characters, and specifically
23 Batman characters?

24 A. Everybody was pitching all the
25 time. Like I said, everybody pitched

1 Batman, because you want to get on to
2 Batman. It was the title to work on.

3 So, you know, I visit DC and
4 there'd always be a half of dozen other
5 freelancers there and they were there to
6 pitch.

7 Q. When you say everyone in these
8 other freelancers, are you referring to
9 people that are in the inner circle, or are
10 you referring to people who are not in the
11 inner Batman circle that?

12 A. Well, in the DC offices it was
13 generally people who were already working
14 for DC. But, you know, lots of times I saw
15 freelancers pitching at conventions. Come
16 to a DC booth and say, Hey, I have an idea.

17 Q. Okay. When you say "people,"
18 when you refer to people in the office that
19 were already working on things, what do you
20 mean by that?

21 A. Well, these were people that they
22 had monthly books. They had monthly
23 assignments. Generally it was like
24 Wednesdays. The freelancers would show up.
25 It would be freelancer day at DC. You'd go

1 and your editor would take you to lunch.

2 So you get a free lunch and
3 you get to pitch ideas. And it was,
4 you know, it was usually the usual
5 suspects. It was guys who already had
6 assignments with the company. But
7 sometimes not.

8 And sometimes -- I mean,
9 once, I even brought along a friend of mine
10 who was a newspaper reporter and he pitched
11 an idea. I just brought him along as a
12 guest.

13 Q. And just to clarify, when you
14 were referring to pitching ideas are you
15 referring to just ideas for stories or did
16 you ever witness people pitching, providing
17 art work as opposed to literary work but
18 visual work.

19 A. Oh, yeah. A lot of times when
20 you pitched, you have what you call
21 pitch piece. It would be a piece of
22 artwork.

23 Because every time I
24 pitched, I had an artist in mind, and I
25 would talk to them beforehand. And we

1 would have art prepared to go along with
2 the piece. So, basically, pitch as
3 a team. Not all the time.

4 Sometimes I just pitched as
5 a writer, but sometimes I pitched as part
6 of the writer artist team.

7 Q. And when you're doing these
8 pitches and when they involve a text, can
9 you describe how long the text was?

10 A. Well, it was generally as long as
11 you needed to tell the story to sell it.
12 You had to sell it and tell it. Some
13 pitches were short, particularly if they
14 were high concepts.

15 Others were longer if the
16 story was more involved. It wasn't like a
17 set length for pitch pieces. It was
18 whatever length you thought you needed in
19 order to sell the story and tell the story.

20 Q. In order to sell and tell the
21 story, what kind of specific description
22 might you include in your pitch piece?

23 A. Well, you start with the general
24 overall concept of the story. Why is this
25 story different from all the other stories,

1 that have been done with this particular
2 character? And then the direction you want
3 to take it in, and you would simply tell
4 the story beat by beat, including all of
5 the characters involved and everything
6 else.

7 So basically you're giving
8 them the beginning, middle and end of the
9 story, so they understand why this is a
10 different kind of story, why they might
11 want to buy it. Why it's right for the
12 character.

13 Q. And when you refer to this sort
14 of phrase beat by beat, what do you mean
15 there?

16 A. It's like each story scene.
17 Story begins here, goes there, introduce
18 your first major conflict, your twist, your
19 turns, your reveals and your big
20 conclusion.

21 Q. And was it your understanding
22 that you, that some of the Batman
23 characters you used in these pitches were
24 owned by DC Comics?

25 A. Yes. DC owned everything. You

1 were playing in their sand box, but they
2 owned the sand box.

3 Q. Right. But it was your
4 understanding you had permission to use the
5 characters in your pitches, correct?

6 A. Not only permission, you were
7 encouraged. They didn't want to hear
8 about -- they didn't want you pitching
9 somebody else's characters. They want the
10 stories to be specific to these characters.

11 So you had to use those
12 characters in the pitch, or otherwise
13 there's no sense in pitching it.

14 Q. Okay. And Mr. Dixon, I have
15 looked at your resume and you've got quite
16 a fan page on the internet, fan presence on
17 the internet.

18 So I would say that you were
19 probably very, very welcomed by DC Comics
20 to pitch material. And so I can understand
21 why you would make this commission and
22 encouragement and apply it to you.

23 Do you think it applied, or
24 was it your impression that this
25 permission, and encouragement applied to

1 other freelance writers who didn't have
2 your --

3 MR. WEINBERGER: Objection.

4 BY MR. PARKER:

5 Q. You can answer the question,
6 Mr. Dixon.

7 A. Okay, yeah. I mean, I didn't
8 have special permission to do this.
9 Anybody could.

10 If you had a good idea for
11 Batman, Superman, Green Lantern or
12 whatever, you could be a total stranger.
13 You can come in off the street and they
14 would be willing to listen, as long as it's
15 a good idea.

16 Q. And when you were working as a
17 freelance contributor to DC Comics during
18 the early 90s, did you know Christopher
19 Wozniak at that time?

20 A. Yeah. I ran across him a couple
21 of times. I can't remember where or when,
22 but I knew who he was.

23 Q. Did you know him to be a
24 freelance contributor at the time to
25 DC Comics?